

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DARNELL DIGGS,

Plaintiff,

8:23CV149

vs.

D.O.C.,

Defendant.

MEMORANDUM AND ORDER

This case is before the Court on its own motion. Plaintiff, a prisoner, filed a Complaint on April 14, 2023, which, liberally construed, alleges civil rights violations against the state of Pennsylvania, the Department of Corrections ("D.O.C."), and unnamed prison officials at the Pennsylvania State Correctional Institution at Fayette ("SCI Fayette"), arising from an incident with another inmate while housed at SCI Fayette.

[Filing No. 1.](#)

Although Plaintiff has neither paid a filing fee nor moved to proceed in forma pauperis, the Court is required to review prisoner civil complaints, before, or as soon as practicable after docketing, seeking relief against a governmental entity or an officer or employee of a governmental entity to determine whether summary dismissal is appropriate. See [28 U.S.C. § 1915A\(a\)](#). The Court must dismiss a complaint or any portion of it that states a frivolous or malicious claim, that fails to state a claim upon which

relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. [28 U.S.C. § 1915A\(b\)](#).

[28 U.S.C. § 1391\(b\)](#) provides that civil suits may be brought only in the judicial district where (1) any defendant resides, if all defendants reside in the same State; (2) a substantial part of the events or omissions giving rise to the claim occurred; or (3) any defendant may be found, if there is no district in which the claim may otherwise be brought. In this case, Plaintiff names “the state” and the D.O.C. as defendants, but also describes actions by other unnamed SCI Fayette employees. [Filing No. 1](#). Further, it appears that all of the events giving rise to Plaintiff’s claims occurred at SCI Fayette in Fayette County, Pennsylvania. In other words, there is no indication in the Complaint that any connection to the state of Nebraska exists under § 1391(b) which would allow the case to remain before this Court.

Under [28 U.S.C. § 1406](#), if a plaintiff files a case in the wrong venue, the district court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought,” [28 U.S.C. § 1406\(a\)](#), and may do so sua sponte. See [De La Cruz v. United States](#), No. 4:14CV3160, 2014 WL 4705145, at *2 (D. Neb. Sept. 22, 2014); [Camacho-Corona v. Douglas Cty. Dep’t of Corr.](#), No. 8:12CV132, 2012 WL 3112020, at *4 (D. Neb. July 31, 2012). Moreover, a case can be transferred even if the transferring court lacks personal jurisdiction over the defendant. See [Goldlawr, Inc. v. Heiman](#), 369 U.S. 463 (1962).

The allegations in Plaintiff’s Complaint establish that the United States District Court for the District of Nebraska is the wrong venue for this case. Rather, it appears that the proper venue for Plaintiff’s case under [28 U.S.C. § 1391\(b\)\(1\) or \(2\)](#) is the United

States District Court for the Western District of Pennsylvania since that court has jurisdiction in Fayette County, Pennsylvania, where the events or omissions giving rise to Plaintiff's claims seem to have occurred.¹

IT IS THEREFORE ORDERED that:

1. The District of Nebraska is an improper venue for Plaintiff's Complaint. However, in the interests of justice, the Court will transfer this case to the United States District Court for the Western District of Pennsylvania, a proper venue.
2. The Clerk of the Court is directed to take all necessary steps to transfer this matter to the United States District Court for the Western District of Pennsylvania.
3. The Clerk of the Court shall close and terminate this case in the District of Nebraska.

Dated this 18th day of April, 2023.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Court

¹ SCI Fayette is located at 50 Overlook Drive, LaBelle, Pennsylvania. See Pennsylvania Department of Corrections, *SCI Fayette*, available at: <https://www.cor.pa.gov/Facilities/StatePrisons/Pages/Fayette.aspx> (last accessed April 17, 2023). The United States District Court for the District of Pennsylvania has jurisdiction over cases arising in Fayette County, Pennsylvania. See United States District Court, Western District of Pennsylvania, *Jurisdiction*, available at <https://www.pawd.uscourts.gov/jurisdiction> (last accessed April 17, 2023).